

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

NORMAN FREEMAN,

Petitioner,

v.

1:97-cv-056

1:94-cr-014

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM AND ORDER**

This motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 was denied and the action dismissed; the Sixth Circuit denied a certificate of appealability. Petitioner then filed a motion to reopen the § 2255, which this court denied. Petitioner filed an untimely notice of appeal of that decision, in which he stated that he did not receive the order denying his motion to reopen until shortly before he filed his notice of appeal. The Sixth Circuit has remanded the case for the limited purpose of considering the notice of appeal as a motion to reopen the appeal period, under Rule 4(a)(6) of the Federal Rules of Appellate Procedure.

The court notes that petitioner's copy of the order denying the motion to reopen was returned undelivered, apparently having been sent to the wrong address. The court also notes that petitioner filed his notice of appeal within 137 days of the entry of judgment and within seven days after he received notice of the entry of judgment. The court finds that no party would be prejudiced by reopening the time to file an appeal. Petitioner thus having met the requirements of Rule 4(a)(6), his notice of appeal will be treated as a motion to reopen the appeal period, which is **GRANTED**.

**E N T E R:**

s/ James H. Jarvis  
United States District Judge